

SERVICE DATE – MARCH 3, 2015

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 32 (Sub-No. 106X)

**Boston and Maine Corporation—Discontinuance of Service Exemption—in
Essex County, Mass.**

BACKGROUND

In this proceeding, the Boston and Maine Corporation (B&M) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the discontinuance of common carrier service over a line of railroad in Essex County, Massachusetts. The rail line proposed for abandonment extends approximately 1.4 miles from milepost 0.0 to milepost NR 1.4 in Lawrence, Massachusetts (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment.

If discontinuance authority is granted in this proceeding, B&M will no longer provide rail service over the Line. The owner of the Line is the Massachusetts Bay Transit Authority (MBTA), a political subdivision of the Commonwealth of Massachusetts and a non-carrier. Because MBTA is not a rail carrier subject to Board regulation, MBTA is not required to seek Board approval for the abandonment of the Line. Therefore, should the Surface Transportation Board (the Board) approve the proposed discontinuance, the Line would no longer be subject to environmental review by the Board in the event of salvage or disposition of the rail right-of-way.

ENVIRONMENTAL REVIEW

B&M submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the discontinuance or any post-discontinuance activities. B&M served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 32 (Sub-No. 106X).

In rail line abandonments, OEA assesses the environmental impacts of salvage of the rail line and diversion of train traffic to other modes that exceed the thresholds set forth in the Board's environmental rules. Also under the Board's environmental rules at 49 C.F.R. 1106.b(3), discontinuances of service normally require the preparation of an Environmental Assessment. However, where the owner of the rail assets—the tracks, ties, and other appurtenances—is a carrier who would need to seek abandonment authority at a later time from the Board, typically, no environmental review is deemed necessary. In cases where the owner of the rail line proposed for discontinuance is not a rail carrier, such as is the case here, there would be no subsequent abandonment filing with the Board and, therefore, no opportunity for environmental review by the Board before salvage could occur. An Environmental Assessment addressing the potential environmental impacts that could result from MBTA's salvage of the Line at some future time must be considered in this discontinuance proceeding otherwise there would never be any environmental review of salvage.

Diversion of Traffic

B&M states that no local traffic or overhead traffic has moved over the Line for at least two years. Accordingly, the proposed discontinuance would not adversely impact the development, use and transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Because B&M does not own the rail right-of-way or any of the physical properties of the Line, B&M cannot conduct any salvage activity as a result of the proposed discontinuance. Neither B&M nor OEA has any knowledge regarding MBTA's planned use of the Line following discontinuance of service. Because MBTA is not a rail carrier subject to Board regulation, MBTA would not be required to obtain authority from the Board prior to salvaging or disposing of the Line.

Impacts from salvage of a rail line typically include the removal of tracks and ties and may include the removal of ballast, dismantling of any bridges or other structures in the rail right-of-way, and regrading of the right-of-way. In this Environmental Assessment, OEA assumes that salvage activity would include the removal of track and ties using the existing rail right-of-way because these are the salvage activities typically conducted in connection with railroad abandonments.

Land Use

In response to B&M's request for comment on the abandonment, the U.S. Natural Resource Conservation Service (NRCS) states that the proposed discontinuance would not adversely affect agricultural resources. Because salvage activity, if any, would occur within an existing rail right-of-way, OEA concurs with the conclusions of NRCS. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

B&M requested comments from City of Lawrence, Massachusetts regarding the consistency of the proposed abandonment with existing land use plans, but has received no response to date. Because salvage activity, if any should occur, would be conducted within an existing rail right-of-way, OEA does not anticipate that such activity would have any effect on local land use.

Water Resources

The Line crosses the Merrimack River, but does not appear to cross any other waterbodies or wetlands.² B&M requested comments from the Massachusetts Department of Environmental Protection and the U.S. Army Corps of Engineers regarding potential impacts of the proposed discontinuance on waterways and wetlands. To date, B&M has not received comments from these agencies. Should MBTA undertake any salvage activity following discontinuance of service, MBTA would be required by state and federal law to obtain any applicable permits related to the protection of waterways and wetlands. Accordingly, OEA concurs with B&M that the proposed discontinuance would have no impact on water resource.

Hazardous Materials

B&M states that no known hazardous waste sites or spill exist within or adjacent to the rail right-of-way. OEA's review has confirmed that there are no federally listed Superfund sites in the vicinity of the Line.³

Biological Resources

The U.S. Fish and Wildlife Service (USFWS) submitted comments identifying federally listed threatened and endangered species that may be located in the vicinity of the Line. OEA also conducted a search of the USFWS Information, Planning, and Conservation System (IPaC) in order to identify protected species.⁴ The table below shows the protected species known or thought to occur in Essex County, Massachusetts, as identified by USFWS and by OEA's search.

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last visited February 24, 2015).

³ Environmental Protection Agency, NEPAAssist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited February 23, 2015).

⁴ U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac/> (last visited February 23, 2015).

Protected Species in Essex County, Massachusetts			
Group	Common Name	Scientific Name	Status
Birds	Piping Plover	<i>Charadrius melodus</i>	Threatened
	Red Knot	<i>Calidris canutus rufa</i>	Threatened
	Roseate tern	<i>Sterna dougallii dougallii</i>	Endangered
Flowering Plants	Small Whorled pogonia	<i>Isotria medeoloides</i>	Threatened

Among these species, the three birds—the Piping Plover, Red Knot, and Roseate tern—are typically found in areas near sea shores. The Small Whorled pogonia is found in hardwood and conifer forests and is also unlikely to be present within the project area.

OEA notes that, based on a search using the USFWS critical habitat mapping tool, the Line does not cross and is not located adjacent to areas containing critical habitat for these or other federally listed threatened or endangered species.⁵

B&M states that, during consultation with USFWS, USFWS stated that no federally listed protected, threatened, or endangered species are known to occur in the project area. Because the discontinuance of the Line would not result in any salvage activities and because no federally listed threatened or endangered species are likely to occur in the vicinity of the Line, OEA concurs with B&M that the proposed discontinuance would not affect federally protected species or critical habitat.

Air Quality

OEA believes that any air emissions associated with salvage operations, if any, would be temporary and would not have a significant impact on air quality.

Noise

Noise associated with salvage activities, if any, would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed discontinuance would cause significant environmental impacts.

HISTORIC REVIEW

The Line appears to be a segment of the former Manchester & Lawrence Railroad, which opened in 1849. The majority of the Manchester & Lawrence has been abandoned. The right-

⁵ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://ecos.fws.gov/ipac/> <http://ecos.fws.gov/crithab/> (last visited February 24, 2015).

of-way of the entire Manchester & Lawrence Railroad is owned by the MBTA, which has converted much of the right-of-way into multiuse trails.

B&M identifies one structure on the Line that is 50 years or older. This is a bridge crossing the Merrimack River of approximate 360 feet in length. The bridge is located at approximately milepost 0.30 and is immediately upstream of the Great Stone Dam, an historic site listed in the National Register of Historic Places (National Register).

B&M served the Historic Report, including topographic maps of APE, on the Tennessee Historical Commission (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has stated that they have no comment on the proposed discontinuance because the granting of discontinuance authority would not adversely affect any historic sites or structures listed in or eligible for listing in the National Register located within rail right-of-way (the Area of Potential Effect or APE).

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the APE of the proposed discontinuance. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this Environmental Assessment, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁶ No federally recognized tribes were identified in the search as potentially having knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment.

CONDITIONS

B&M does not intend to reroute any rail traffic as a result of the proposed discontinuance. B&M does not own the rail line proposed for discontinuance and does not have authority to conduct salvage following discontinuance. Because the owner of the rail right-of-way, MBTA, is not a rail carrier subject to Board regulation, OEA may not recommend, and the Board may not impose, environmental mitigating conditions on MBTA in this proceeding. Accordingly, OEA is not recommending any conditions to mitigate the potential environmental impacts of the proposed discontinuance.

⁶ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited February 24, 2015).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that discontinuance of rail service on the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

The alternative to the proposed discontinuance would be denial of the notice of exemption, which would result in no change to operations and no effects to the existing quality of the human environment.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding the Board's discontinuance process. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 32 (Sub-No. 106X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: March 3, 2015.

Comment due date: March 18, 2015.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.